

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN, State Bar No. 193338
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 322-5318
6 Facsimile: (916) 324-5567
E-mail: Geoffrey.Allen@doj.ca.gov

7 Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-203

13 **TERESA RODDY,**
AKA TERESA SPANKE, AKA
TERESA BALES SPANKE, AND
14 **TERESA BALES**
11548 1st Place
15 Hanford, CA 93230

OAH No.

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

16 Registered Nurse License No. 509717

17 Respondent.
18

FINDINGS OF FACT

19 1. On or about January 2, 2008, Complainant Ruth Ann Terry, M.P.H., R.N.
20 (Complainant), in her official capacity as the Executive Officer of the Board of Registered
21 Nursing (Board), Department of Consumer Affairs, filed Accusation No. 2008-203 (Accusation)
22 against Teresa Roddy, aka Teresa Spanke, aka Teresa Bales Spanke, and Teresa Bales
23 (Respondent) before the Board.

24 2. On or about March 20, 1995, the Board issued Registered Nurse License
25 Number 509717 (License) to Respondent. The License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on September 30, 2008, unless renewed.
27

28 ///

1 3. On or about January 17, 2008, Kasey P. Arismende, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation,
3 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
4 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
5 was and is: 11548 1st Place, Hanford, CA 93230. A copy of the Accusation is attached as
6 exhibit A, and is incorporated herein by reference.

7 4. Service of the Accusation was effective as a matter of law under the
8 provisions of Government Code section 11505, subdivision (c).

9 5. On or about January 19, 2008, the aforementioned documents were
10 returned by the U.S. Postal Service marked "Unable to Forward."

11 6. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the
13 respondent files a notice of defense, and the notice shall be deemed a specific
14 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon her of the Accusation, and therefore waived her right to a hearing on the merits of the
17 Accusation.

18 8. Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at
20 the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

21 9. Pursuant to its authority under Government Code section 11520, the Board
22 finds Respondent is in default. The Board will take action without further hearing and, based on
23 the evidence on file herein, finds that the allegations in the Accusation are true.

24 10. The total cost for investigation and enforcement in connection with the
25 Accusation are \$9,437.50 as of February 29, 2008.

26 ///

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. Based on the foregoing findings of fact, Respondent has subjected her

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's License based upon the

a. Respondent violated Business and Professions Code section 2761,

b. Respondent violated Business and Professions Code section 2761,

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED May 19, 2008

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A: Accusation No.2008-203

Exhibit A

Accusation No. 2008-203

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN, State Bar No. 193338
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-203

13 **TERESA RODDY,**
14 **AKA TERESA SPANKE, AKA**
TERESA BALES SPANKE, AND
15 **TERESA BALES**
11548 1st Place
Hanford, CA 93230

A C C U S A T I O N

16 Registered Nurse License No. 509717

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 ("Board"), Department of Consumer Affairs.

24 2. On or about March 20, 1995, the Board issued Registered Nurse License
25 Number 509717 to Teresa Roddy, aka Teresa Spanke, aka Teresa Bales Spanke, and Teresa
26 Bales ("Respondent"). The registered nurse license was in full force and effect at all times
27 relevant to the charges brought herein and will expire on September 30, 2008, unless renewed.

28 ///

STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 7. Code section 4060 provides, in pertinent part,

2 No person shall possess any controlled substance, except that furnished to
3 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
5 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
6 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
7 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
8 pharmacist pursuant to either subparagraph (D) of paragraph (4)
9 of, or clause (iv) of subparagraph (A) of paragraph (5) of,
10 subdivision (a) of Section 4052.

11 COST RECOVERY

12 8. Code section 125.3 provides, in pertinent part, that the Board may request
13 the administrative law judge to direct a licentiate found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 8. DRUGS

17 a. "Marijuana" is a Schedule I controlled substance as designated by Health
18 and Safety Code section 11054, subdivision (d)(13).

19 b. "Methamphetamine" is a Schedule II controlled substance as designated
20 by Health and Safety Code section 11055, subdivision (d)(2).

21 FIRST CAUSE FOR DISCIPLINE

22 (Criminal Convictions)

23 9. Respondent's registered nurse license is subject to disciplinary action
24 under Code section 2761, subdivision (f), in that Respondent has been convicted of crimes that
25 are substantially related to the qualifications, functions, and duties of a registered nurse, as
26 follows:

27 a. On or about August 29, 2007, in the Superior Court of California, County
28 of Kings, in the case entitled *People of the State of California v. Teresa Spanke* (Super. Ct.,
Kings County Cty., 2007, Case No. 06CM4626), Respondent was convicted by the Court on the
Jury's finding of guilty of violation of Penal Code section 242 (unlawful use of force or violence
upon another), a felony.

1 b. On or about April 7, 2005, in the Superior Court of California, County of
2 Kings, in the case entitled *People of the State of California v. Teresa Spanke* (Super. Ct., Kings
3 County Cty., 2005, Case Nos. 04CM2062 and 04CM2063 consolidated), Respondent was
4 convicted by the Court on her plea of guilty of violation of Health & Safety Code section
5 11366.5, subdivision (a) (renting building for the unlawful manufacture, storage or distribution
6 of methamphetamine, a controlled substance), a felony.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Possess Controlled Substances in Violation of Law, and Self-Administer)

9 10. Respondent's registered nurse license is subject to disciplinary action under
10 Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
11 section 2762, subdivision (a), in that Respondent did the following:

12 a. On or about January 30, 2004, March 16, 2004, and/or June 2, 2005,
13 Respondent possessed methamphetamine and marijuana, controlled substances, in violation of
14 Code section 4060.

15 b. On or about January 30, 2004, and/or March 16, 2004, Respondent self-
16 administered methamphetamine, a controlled substance, in violation of Code section 4060.

17 **OTHER MATTERS**

18 11. On or about April 30, 2004, upon the determination of the Board's
19 Diversion Evaluation Committee that Respondent constituted a public safety risk, Respondent
20 was terminated from the Board's Diversion Program.

21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


24 1. Revoking or suspending Registered Nurse License Number 509717,
25 issued to Teresa Roddy, aka Teresa Spanke, aka Teresa Bales Spanke, and Teresa Bales;

26 2. Ordering Teresa Roddy, aka Teresa Spanke, aka Teresa Bales Spanke, and
27 Teresa Bales to pay the Board of Registered Nursing the reasonable costs of the investigation
28 and enforcement of this case, pursuant to Code section 125.3; and,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: 1/2/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

03579110-SA2006102916
10414801.wpd
bfc [3/22/07& 12/17/07]